

RECORDATION NO. 24023-C FILED

AUG 14 '02 2-31 PM

SURFACE TRANSPORTATION BOARD

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ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

OF COUNSEL
URBAN A. LESTER

August 14, 2002

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Memorandum of Mortgage, dated as of August 14, 2002, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Memorandum of Mortgage previously filed with the Board under Recordation Number 24023.

The names and addresses of the parties to the enclosed document are:

| | |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Debtor: | Babcock & Brown Rail Funding LLC 599 Lexington Avenue New York, New York 10022 |
| [Secured Party: | Bayerische Hypo-Und Vereinsbank AG, as Agent FPA 4 Lease/Asset Finance Am Tucherpark 1 (FPA) 80538 Munich Germany] |

Mr. Vernon A. Williams
August 14, 2002
Page Two

A description of the railroad equipment covered by the enclosed document is:

One hundred and thirty (130) open top hopper cars: FLCX 200300 – FLCX 200429.

A short summary of the document to appear in the index is:

Memorandum of Mortgage.

Also enclosed is a check in the amount of \$30.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. Alvord', with a stylized flourish at the end.

Robert W. Alvord

RWA/anm
Enclosures

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SURFACE TRANSPORTATION BOARD

EXECUTION COPY

MEMORANDUM OF MORTGAGE

Memorandum of Mortgage, made and entered into as of August 14, 2002 by BABCOCK & BROWN RAIL FUNDING LLC (the "Debtor"), in favor of BAYERISCHE HYPO- UND VEREINSBANK AG, as Agent under the Security Agreement referred to below (together with its successors and permitted assigns, the "Secured Party"). Terms used in this instrument have the meanings assigned thereto in the Security Agreement dated as of December 1, 2000 between the Secured Party and the Debtor (as supplemented, including by Security Agreement Supplement No. 8 dated the date hereof, the "Security Agreement").

WITNESSETH:

The undersigned has entered into the Security Agreement, under which the Debtor has granted a security interest in certain railroad equipment bearing reporting marks and road numbers as listed on Exhibit A attached hereto and in each lease referred to on Exhibit B attached hereto to the Secured Party in order to secure the Debtor's performance of its obligations as described in the Security Agreement.

IN WITNESS WHEREOF, the party hereto has caused this memorandum to be duly executed by an officer duly authorized as of the date and year first above written.

BABCOCK & BROWN RAIL FUNDING LLC

By: 

Name: Thomas McGraw

Title: Vice President

Memorandum of Mortgage

[illegible]

On the 8th day of August in the year 2002 before me personally came Thomas McGraw to me known, who, being by me duly sworn, did depose and say that he resides at 1632 Washington Lane, West Chester, PA 19382; that he is the Vice President of Babcock & Brown Rail Funding LLC, the limited liability company described in and which executed the above instrument; and that he signed his name thereto by authority of the officers of said limited liability company.

Jeffer Moreno
Notary Public

[Notarial Seal]

Jeniffer Moreno
Notary Public, State of New York
No. 01M06096346
Qualified in Queens County
Commission Expires January 24, 2008

NEWYORK/#91803.1

Memorandum of Mortgage

**Exhibit A
to Memorandum of Mortgage**

EQUIPMENT

| Lease # | # Cars | Year Built | Description | Reporting Marks | Casualty Marks |
|---------|--------|------------|------------------------------------------------------------------------------------------------------------------------------|------------------------------------|----------------|
| 1 | 130 | 2002 | 4300 cu. ft. aluminum rapid discharge open top hopper cars with rotary couplers (Johnstown America Autoflood II) | FLCX 200300 – 200429, inclusive | None. |

Exhibit B
to Memorandum of Mortgage

LIST OF LEASES AND OTHER OPERATIVE AGREEMENTS

Lease #

1. Master Car Lease Agreement dated as of June 26, 2002, entered into by and between Babcock & Brown Rail Funding LLC (as assignee of Flex Leasing Corporation), as lessor, and FirstEnergy Generation Corp., as lessee.

Schedule No. 02 to Master Car Lease Agreement dated as of June 26, 2002, entered into by and between Babcock & Brown Rail Funding LLC (as assignee of Flex Leasing Corporation), as lessor, and FirstEnergy Generation Corp., as lessee.

Memorandum of Lease of Railcars [FLC] dated as of August ~~14~~, 2002 between Babcock & Brown Funding LLC, as lessor, and FirstEnergy Generation Corp., as lessee.

CERTIFICATION

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated:

Aug. 14, '02



Robert W. Alvord